

STORCH AMINI PC

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BY ECF FILING

The Honorable Andrew T. Baxter
United States Magistrate Judge
Federal Building and U.S. Courthouse
P.O. Box 7396
Syracuse, New York 13261

Re: H'Shaka v. O'Gorman et al., No 17-CV-0108

Dear Judge Baxter:

We write on behalf of plaintiff in brief response to defense counsel's letter of Friday, August 3. Our understanding from the July 26 telephonic conference was that the Court had reached its preliminary determination on the document production issue and was not soliciting additional written submissions on that issue making new legal or factual arguments. We were thus surprised to see Mr. Reed using the requested status report on the defendants' attitude toward a potential settlement conference as a vehicle to make factual assertions that were not previously made in an effort to reargue the issue. If the Court is inclined to consider rather than ignore this belated submission, we respectfully request an opportunity to be heard, whether in a further telephonic conference or by making a substantive written submission.

We defer to the Court's judgment as to whether a settlement conference would be productive given defendants' professed lack of interest. We do think, however, that any such conference would be much more likely to be productive with the participation of one or more principals on the defense side. We understand that non-party DOCCS has institutional interests that are implicated by this lawsuit and any potential consensual resolution, but do not think attendance by DOCCS in-house counsel is a substitute for participation by the principals.

Respectfully submitted,



John W. Brewer

cc: All Counsel of Record (by ECF)